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10/583,550	05/21/2007	Giovanni Stefani	292784US6PCT	9838
22850 7590 05/29/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER MURPHY, TIMOTHY J				
ART UNIT 3656		PAPER NUMBER		
NOTIFICATION DATE 05/29/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/583,550

**Applicant(s)**

STEFANI, GIOVANNI

**Examiner**

Timothy J. Murphy

**Art Unit**

3656

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The claim limitations “first clamping means for blocking” in claim 25 uses the phrase “means for” or “step for”, but it is modified by some structure, material, or acts recited in the claim. It is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph, because the claim recites “wherein the first clamping means comprises a plurality of first clamping members...” however, it is unclear as to whether the clamping members perform the function “blocking”.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase “means for” or “step for” is clearly **not** modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does **not** wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase “means for” or “step for”).

Further, the claim elements “first clamping means for blocking”, “second clamping means ... for blocking”, “third clamping means ... for blocking”, “means for supporting”, etc. are means (or step) plus function limitations that invoke 35 U.S.C. 112, sixth paragraph. The written description only implicitly or inherently sets forth the corresponding structure, material, or acts that perform the claimed function.

Pursuant to 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181, applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites the corresponding structure, material, or acts that perform the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(c) State on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 18-36 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Regarding claims 18 and 35-36**, the claim element “means for supporting” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. In the specification, there is no specific reference to means for performing the claimed function of supporting (e.g., what structure/material/acts carry out this claimed function) thus making the claims indefinite.

**Regarding claims 24-25 and 35-36**, the claim element “clamping means ... for blocking ...” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function. For example, in the specification, there is no specific reference to a (first, second or third) “clamping means ...” and the associated structure/material/acts necessary to carry out this claimed function (“for blocking”), thus the claims are indefinite.

Applicant is required to:

- (a) Amend the claims so that the claims limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)); or
- (c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

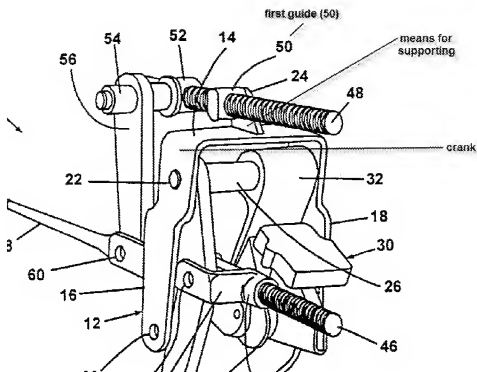
A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 18-19, 30-34 are rejected** under 35 U.S.C. 102(b) as being anticipated by Brock (USPN 6,443,028).

**Regarding claim 18**, Brock discloses an adjustable set of pedals for a motor vehicle, comprising:

- a first pedal (36 and 38; fig 1) for braking of the motor vehicle;
- a second pedal (31; 34; fig 1) for acceleration of the motor vehicle;
- means for supporting the first and second pedals (see figure below); and
- an adjustment device (fig 1 shows adjustment device for pedals 36, 31) for controlling selectively the position of the supporting means with respect to a frame of the motor vehicle (104; fig 8) and comprising a crank mechanism (cradle 12 acts as a crank between nut 50 and pin 26) set between the supporting means and the frame (fig 8);
- the adjustment device comprising:
  - a first guide (nut 50) extending in a first direction (along 48) and supporting the supporting means (via ear 24) which are mobile along the first guide; and
  - a control rod (second ball screw 46 and nut 42) parallel to the first direction, slidably engaged through the first pedal (via 42), and connectable with the first pedal for actuating a braking device of the motor vehicle (via elements 42 and push rod 58)
  - wherein the first guide (50) is fixed to the frame and the supporting means are mobile along a rectilinear path (means for supporting are mobile along 48, which is a straight line).



**Regarding claim 19,** Brock discloses the adjustable set of pedals according to Claim 18, wherein the first guide comprises a first screw mounted to rotate about a first longitudinal axis (screw 48 is mounted to rotate about its axis); the supporting means being coupled to the first screw via a first external-thread/internal-thread coupling (nut 50).

**Regarding claim 30,** Brock discloses the adjustable set of pedals according to Claim 18, wherein the first direction is a substantially rectilinear direction (fig 1; the first direction is along 48, which is a straight line).

**Regarding claim 31,** Brock discloses the adjustable set of pedals according to Claim 18, wherein the first pedal is coupled to the control rod via a second external-thread/internal-thread coupling (nut 44; fig 1).

**Regarding claim 32,** Brock discloses the adjustable set of pedals according to Claim 18, wherein the first pedal is hinged to the supporting means for oscillating about a second axis of

fulcrum (26; fig 2), and the second pedal is hinged to the supporting means for oscillating, with respect to the supporting means, about a fourth axis of fulcrum (between 31 and 30, throttle arm 31 is pivotally mounted to ETC 30 which is connected to support means; fig 2; col. 2, ll. 23-26) parallel to the second axis of fulcrum (fig 2).

**Regarding claim 33**, Brock discloses the adjustable set of pedals according to Claim 32, wherein the first pedal is further hinged in a position corresponding to an intermediate point thereof, to a sleeve (nut 44) slidable along the control rod for oscillating (fig 6), with respect to the sleeve, about a fifth axis of fulcrum (nut pivot opening 40; fig 6) substantially parallel to the second axis of fulcrum.

**Regarding claim 34**, Brock discloses the adjustable set of pedals according to Claim 33, wherein the sleeve is coupled in an axially slidable manner (fig 6) to the control rod to perform rectilinear displacements along the control rod (with respect to pedals and support means), and is connectable to the control rod to impart on the control rod, following upon oscillation of the first pedal about the second axis of fulcrum, rectilinear displacements so as to control selectively operation of a braking device (col. 4, ll. 20-25, "Application of force to brake pedal pad 38 will necessarily transfer force to brake booster push rod 58 through brake nut 44, second ball screw 46, second ball screw hub 62, and push rod pivot pin 60.").

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claim 20-22 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Brock in view of Redding et al (USPN 5,460,061).

**Regarding claim 20**, Brock discloses the adjustable set of pedals according to Claim 18, except for including wherein the adjustment device further comprises a second guide extending in a second direction substantially transverse to the first direction; and a slide, mounted to slide along the second guide under action of thrust of the crank mechanism.

Redding teaches:

- a second guide (slot 18e; fig 2) extending in a second direction substantially transverse to a first direction (along 24; fig 2); and
- a slide (pin in slot 18e; fig 2), mounted to slide along the second guide under action of thrust of a crank mechanism (cam 22 and link 24; fig 2) for the purpose of selectively adjusting the pivot axis of the support, thus increasing range of pedal positions for the user.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to modify Brock to include wherein the adjustment device further comprises a second guide extending in a second direction substantially transverse to the first direction; and a slide, mounted to slide along the second guide under action of thrust of the crank mechanism, as taught by Brock, for the purpose of selectively adjusting the pivot axis of the support, thus increasing range of pedal positions for the user.

**Regarding claim 21**, Brock as currently modified by Redding discloses the adjustable set of pedals according to Claim 20, wherein the crank mechanism comprises:



- a connecting rod (link 24 of Redding) set between the supporting means (bracket 16 of Redding) and the slide (pin in slot 18e of Redding);
- and a crank (cam 22) set between the frame and the connecting rod (fig 2).

**Regarding claim 22**, Brock as modified by Redding discloses the adjustable set of pedals according to Claim 20, wherein the supporting means is mobile under action of thrust of the crank mechanism between a first end position and a second end position (Brock's supporting means are mobile, as modified by Redding, under the regulation of Redding's crank mechanism between a first end position and a second end position corresponding to the extreme ends of the ball screw of Brock; **see MPEP 2114** – "...while features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished in terms from the prior art in terms of structure rather than function..."); and

thrust means (motor 70; fig 6 of Brock) are provided for displacing the supporting means into, and normally maintaining the supporting means in, one of the first and second end positions (motor 70 rotates ball screws 46 and 48).

5. **Claim 23 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Brock in view of Redding as applied to claim 22 above, and further in view of Muller (USPN 5,896,781).

**Regarding claim 23**, Brock as modified discloses the adjustable set of pedals according to Claim 22, except for wherein the thrust means include elastic thrust means set between the slide and the crank mechanism.

Redding teaches a thrust means (transmission member 42) that is set between the slide (30) and the crank mechanism (22) for the purpose of increasing assembly ease.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to further modify Brock to include wherein thrust means (transmission member 42) are set between the slide (30) and the crank mechanism, as taught by Redding, for the purpose of increasing assembly ease.

Muller teaches elastic thrust means (spring 16; fig 2) for the purpose of assisting motion of element thus reducing strain on the transmission member.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to modify further Brock to include elastic thrust means, as taught by Muller, for the purpose of assisting motion of element thus reducing strain on the transmission member.

6. **Claims 24 and 26 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Brock in view of Kiczek (USPN 7,111,524).

**Regarding claim 24**, Brock discloses the adjustable set of pedals according to Claim 18, except for including wherein the adjustment device further comprises: first clamping means for blocking the supporting means along the first guide; and a first actuator device for actuating the first clamping means between a first position of clamping of the supporting means along the first guide and a first position of release.

Kiczek teaches clamping means (tooth 53 and gear 54; fig 2) for blocking supporting means (pin 36) along a guide (slot 20); and an actuator device (lever 84, cable 64; fig 5) for actuating the clamping means between a position of clamping of the supporting means along the

guide and a position of release (fig 2; col. 2, ll. 11-25) for the purpose of allowing the user a convenient means to secure the pedals in place.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to modify Brock to include wherein the adjustment device further comprises: first clamping means for blocking the supporting means along the first guide; and a first actuator device for actuating the first clamping means between a first position of clamping of the supporting means along the first guide and a first position of release, as taught by Kiczek, for the purpose of allowing the user a convenient means to initiate pedal adjustment.

**Regarding claim 26,** Brock as modified discloses the adjustable set of pedals according to Claim 24 except for including: second clamping means for blocking the first pedal along the control rod; and a second actuator device to actuate the second clamping means between a second position of clamping of the first pedal along the control rod and a second position of release.

Kiczek teaches clamping means (tooth 53 and gear 54; fig 2) for blocking a pedal (pin 36) along a rod (gear sector 54); and an actuator device (lever 84, cable 64; fig 5) for actuating the clamping means between a position of clamping of the pedal along the rod and a position of release (fig 2; col. 2, ll. 11-25) for the purpose of allowing the user a convenient means to secure the pedals in place.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to further modify Brock to include second clamping means for blocking the first pedal along the control rod; and a second actuator device to actuate the second clamping means between a second position of clamping of the first pedal along the

control rod and a second position of release, as taught by Kiczek, for the purpose of allowing the user a convenient means to initiate pedal adjustment.

7. **Claims 18-19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Porter et al (US 2002/0157497).

**Regarding claim 18**, Porter discloses an adjustable set of pedals for a motor vehicle (fig 1), comprising:

a first pedal for braking (4) of the motor vehicle;

a second pedal for acceleration (5) of the motor vehicle;

means for supporting the first and second pedals (sliding mounting plate 1); and

an adjustment device (10) for controlling selectively the position of the supporting means with respect to a frame of the motor vehicle and a mechanism set between the supporting means and the frame (drive mechanism 7);

the adjustment device comprising:

a first guide (slot 41; fig 4) extending in a first direction and supporting the supporting means which are mobile along the first guide (see figs 3-4); and

a control rod (8; fig 3) parallel to the first direction, slidably engaged through the first pedal(via element 22), and connectable with the first pedal for actuating a braking device of the motor vehicle (via elements 22 and 1),

wherein the first guide is fixed to the frame and the supporting means are mobile along a rectilinear path (path of 8 is rectilinear).

Porter does not explicitly disclose that the drive mechanism comprises a crank, but Porter does suggest the use of a crank as part of the drive mechanism ([0022], "The drive mechanism

can comprise a rotating cable or conduit, direct drive couple or universal joint that provides a force for moving the sliding plate, rack and pinion, worm gear, magnetic drive, springs, crank or knob, among other suitable electrical and mechanical drive mechanisms.”) for the purpose of increasing the efficiency and reliability of the mechanism.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time which the invention was made to modify Porter to include the use of a crank as part of the drive mechanism for the purpose of increasing the efficiency and reliability of the mechanism.

**Regarding claim 19**, Porter as modified discloses the adjustable set of pedals according to Claim 18, wherein the first guide comprises a first screw (8) mounted to rotate about a first longitudinal axis (axis of 8);

the supporting means being coupled to the first screw via a first external-thread/internal-thread coupling (via element 20).

### ***Response to Arguments***

8. Applicant's arguments filed 3/6/2009 have been fully considered but they are not persuasive.

In general, Applicant argues that newly amended claim 18 is not anticipated by the patent to Brock (USPN 6,443,028) made of record in the original Office action. Specifically, Applicant alleges that Brock fails to disclose “a crank mechanism”, “a control rod” and “wherein the first guide is fixed to the frame and the supporting means are mobile along a rectilinear path”.

In response, Brock indeed discloses these elements:

Regarding the crank mechanism, a crank is read as a "device for transmitting rotary motion, consisting of a handle or arm attached at right angles to a shaft". Brock's crank is the cradle 12 between nut 50 and pin 26. Cradle 12 transmits rotary motion between pin 26 and nut 50 and consists of arms 16 and 18 which are at right angles to a shaft (that of the pin 26).

Regarding the control rod, Applicant argues that the control rod (ball screw<sup>46</sup>) of Brock is not part of the "adjustment device for selectively controlling the position of the supporting means with respect to a frame of the motor vehicle". In response to this, the control rod of Brock is operably coupled to the support means and necessary to the adjustment device disclosed in Brock. Therefore, the control rod of Brock is analogous to the control rod recited in claim 18.

Regarding the supporting means' path of motion, screw 48 extends in a straight line, and is thus rectilinear. Regardless of whether or not the screw 48 pivots about the axis 54, the screw 48 is rectilinear, thus as the supporting means move along this line, the supporting means move along a rectilinear path.

As such, Brock anticipates claim 18.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Murphy whose telephone number is (571)270-7021. The examiner can normally be reached on Mon - Fri, 10 AM - 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard W. Ridley can be reached on (571)272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy J Murphy/  
Examiner, Art Unit 3656

19 May 2009

/Richard WL Ridley/  
Supervisory Patent Examiner, Art Unit 3656